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Company against R. P. Foltz. Judgment for plaintiff, and defendant brings error. Reversed and remanded.

*Will A. Cook*, of Madison, and *H. V. Strayer*, of Luray, for plaintiff in error.

*John H. Downing*, of Front Royal, and *Wm. F. Keyser*, of Luray, for defendant in error.

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BAILEY *v.* HINES, Director General of Railroads.

Nov. 17, 1921.

[109 S. E. 470.]

1. **United States (§ 125\*)—Action against Director General of Railroads against Railroads under Federal Control Is in Effect a Suit to Which the United States Is a Party.**—An action against a Director General of Railroads and his successor in office, as agent designated by the President against whom suits against railroads should be brought is, in substance and effect, a suit against the United States.

2. **United States (§ 125\*)—Conditions Prescribed by Government for Bringing Suit against It Must Be Complied with.**—Federal government had power to deny the right of suing it for acts growing out of its management of railroads or to prescribe terms and conditions for such suits, and when so prescribed they must be complied with.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 406.]

3. **Railroads (§ 5½\*)—New, vol. 6A Key-No. Series—Director General Suable without Naming Him.**—Under General Order No. 50A, issued by the Director General of Railroads concerning suits against railroads, an action against the Director General of Railroads in his official capacity may be directed against the Director General of Railroads without naming him personally.

4. **Railroads (§ 5½\*)—New, vol. 6A Key-No. Series—Federal Agent Appointed under Transportation Act Suable without Naming Him.**—In a suit to subject to plaintiff's claim the revolving fund set apart by the government for that purpose, the designation of the defendant as Director General of Railroads and his successor in office as the agent provided for in section 206 of the Transportation Act Cong. Feb. 28, 1920 and designated under the proclamation of the President of the United States, is a sufficient designation, and the name of the incumbent of the office may be properly omitted or, if deserted, stricken out.

5. **Railroads (§ 5½\*)—New, vol. 6A Key-No. Series—Procedure Not Affected by Federal Control.**—The Federal Control Act Cong.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

March 21, 1918, § 10 (U. S. Comp. St. 1918, U. S. Comp. St. Ann. Supp. 1919, § 3115¾j), providing that carriers under federal control shall be subject to all laws and liabilities as common carriers except in so far as might be inconsistent with such control, preserved to the public the benefit of bringing actions in the same courts, by the forms of procedure and practice in force before the roads were taken over by the government.

**6. Railroads (§ 5¼\*)—New, vol. 6A Key-No. Series—Declaration Amendable by Corrected Name of Federal Agent.**—Under Code 1919, § 6104, allowing liberal rights of amending pleadings, in a suit against an agent designated by the President to defend actions against railroads under federal control, plaintiff may amend the declaration by correcting the name of the agent.

**7. Pleading (§ 230\*)—Statute Allowing Amendment Liberally Construed.**—Code 1919, § 6104, providing for amendment of pleadings, should be liberally construed.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 318.]

Error to Circuit Court, Clarke County.

Action by Bailey against Walker D. Hines, Director General of Railroads. From judgment for defendant, plaintiff brings error. Reversed.

*Curry, Curry & Lewis*, for plaintiff in error.

*Wm. F. Keyser*, of Luray, and *W. R. Staples*, of Roanoke, for defendant in error.

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EWING et al. v. BOARD OF SUP'RS OF NELSON COUNTY.

Nov. 17, 1921.

[109 S. E. 474.]

**1. Eminent Domain (§ 262 (4)\*)—Finding of Damages in Condemnation Proceeding Not Disturbed.**—Where the reviewing court is unable to say that finding as to amount of damages in eminent domain proceeding is without substantial support, it will not interfere.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 66 et seq.]

**2. Highways (§ 41 (4)\*)—Proceedings to Establish Road Held Not Erroneous because Viewers Were Permitted to Give Opinion as to Proper Width.**—Proceedings to establish a road were not erroneous because viewers appointed under Code 1919, § 1977, were directed to report on the question as to how wide the road should be, the width

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.